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UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF CALIFORNIA

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UNITED STATES OF AMERICA, Plaintiff, v. **Benjamin GUTIERREZ (D1)** and **Gabriela Maricela RODRIGUEZ (D2)** Defendants	Magistrate Case No. '08 MJ 0812 DEPUTY COMPLAINT FOR VIOLATION OF Title 8, U.S.C., Section 1324(a)(2)(B)(iii)- Bringing in Illegal Aliens Without Presentation

The undersigned complainant being duly sworn states:

On or about **March 12, 2008**, within the Southern District of California, defendants **Benjamin GUTIERREZ (D1)** and **Gabriela Maricela RODRIGUEZ (D2)**, with the intent to violate the immigration laws of the United States, knowing and in reckless disregard of the fact that an alien, namely, **Arturo ROBLES-Laureano**, had not received prior official authorization to come to, enter and reside in the United States, did bring to the United States said alien, and upon arrival did not bring and present said alien immediately to an appropriate immigration officer at a designated port of entry; in violation of Title 8, United States Code, Section 1324(a)(2)(B)(iii).

And the complainant states that this complaint is based on the attached statement of facts, which is incorporated herein by reference.

SIGNATURE OF COMPLAINANT
Sara Esparagoza, United States Customs and Border Protection Enforcement Officer

Sworn to before me and subscribed in my presence, this **14th** day of **March, 2008**.

UNITED STATES MAGISTRATE JUDGE

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PROBABLE CAUSE STATEMENT

The complainant states that **Arturo ROBLES-Laureano** is a citizen of a country other than the United States; that said alien has admitted he is deportable; that his testimony is material; that it is impracticable to secure his attendance at trial by subpoena; and that he is a material witnesses in relation to this criminal charge and should be held or admitted to bail pursuant to Title 18, United States Code, Section 3144.

On March 12, 2008, at about 7:25 PM., **Benjamin GUTIERREZ (D1)** made application for admission into the United States at the San Ysidro, California Port of Entry as the driver of a Gold 2001 Chevy Impala. Passenger **Gabriela Maricela RODRIGUEZ (D2)** accompanied D1 in the vehicle. D1 and D2 stated they are United States citizens. D1 presented a United States Naturalization Certificate and a California birth certificate on behalf of D2. D1 gave a negative customs declaration, stating they were not bringing anything and that they intended to travel to Chula Vista, California. The CBP Officer asked if only two people were in the vehicle and D1 responded and confirmed that only two persons were in the vehicle. D2 stated she has owned the vehicle for approximately two months. The CBP Officer received a computer generated referral and subsequently escorted the vehicle and its occupants to secondary for further inspection.

In secondary, a cursory inspection of the vehicle led to the discovery of one concealed individual with the upper torso concealed in the dashboard, the bottom extremities affixed in the passenger area covered with a blue cloth, and the feet tucked under the seat. The rear area of the dashboard was visibly altered by removing or cutting parts to make adequate space in order to partially conceal the undocumented alien. CBP Officers assisted in extricating the undocumented alien who was determined to be a citizen of Mexico without legal documentation to enter the United States. The undocumented alien was retained as a material witness and is now identified as **Arturo ROBLES-Laureano (Material Witness).**

During a videotaped proceeding, D2 was advised of her Miranda Rights and elected to submit to questioning without benefit to counsel. D2 admitted she was aware of one undocumented alien concealed in the vehicle. D2 admitted the Material Witness was positioned near her legs. D2 admitted D1 discussed his prior intent to smuggle the Material Witness and asked to borrow her vehicle in order to carry out the act. D2 admitted she willingly accepted to accompany D1.

On a separate videotaped interview, Material Witness admitted he is a citizen of Mexico without legal documentation or legal rights to enter into United States. Material Witness stated his brother made smuggling arrangements with D1. Material Witness stated D1 placed him in the compartment of the vehicle. Material Witness admitted he was going to Las Vegas, Nevada to resume residency and employment.